IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15030 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAY PANCHMAHAL PRAGATI YUVAK MANDAL THRO.PRESIDENT

Versus

SECONDARY EDUCATION DEPARTMENT

Appearance:

1. Special Civil Application No. 15030 of 2004

MR RN SHAH for Petitioner No. 1

MR L B DABHI AGP for Respondent No. 1

MR HEMANG RAVAL for MR AD OZA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 22/12/2004

ORAL JUDGEMENT

1. RULE. Respective parties waive service of rule on behalf of the respondents. With the consent of learned counsel for the parties, the matter is taken up for final hearing.

2. The petitioner Trust has preferred this petition in order to quash and set aside the orders dated 30/06/2003 and 25/08/2003, passed by respondents no.2 & 1 respectively, at Annexures-A & C to the petition, whereby the application preferred by the petitioner for starting Kanya Vidyalay at Village Dudhia, Taluka Limkheda, District Dahod was rejected.

3. The petitioner had applied before respondent no.2 for recognition to start Kanya Vidyalay at the aforesaid place. The said application was processed by respondent no.2. Vide its resolution dated 27/05/2003, respondent no.2 took a decision not to grant recognition to the petitioner. The petitioner was communicated about the said refusal by order dated 30/06/2003, at Annexure-A to the petition. Feeling aggrieved by the said order, the petitioner preferred appeal before respondent no.1. By order dated 25/08/2003, at Annexure-C to the petition, respondent no.1 herein dismissed the appeal preferred by the petitioner. Hence, this petition.

4. Mr.R N Shah learned advocate for the petitioner has contented that the respondent authorities had rejected the application of the petitioner on the ground that the petitioner had not obtained No Objection Certificate of the existing schools in that area. He has contended that the existing schools in that area had never objected to the grant of recognition and that the said schools had in fact given No Objection Certificate to start Kanya Vidyalay at the said place.

5. Mr.Shah has further contended that the impugned orders passed by the respondent autorities denying recognition to the petitioner for starting Kanya Vidyalay in the area in question is illegal, as it is contrary to the policy of the State Government of encouraging eduction amongst girl child. He has submitted that there is great need of Kanya Vidylay in the said area as there was no Kanya Vidyalay in the said area and that it was a backward area.

6. I have heard learned counsel for the parties and have perused the relevant documents on record. In view of the averments made in the petition, more particularly, that the school is for the education of the girl child and that it is to be opened in a backward area, this Court is of the opinion that the matter could be re-considered by the respondent authorities, keeping in mind the aforesaid contentions raised by the petitioner. Hence, the matter is remanded to the respondent authorities without substituting the opinions of both the

authorities.

7.1 Hence, the order dated 30/06/2003 passed by respondent no.2 at Annexure-A to the petition and also the order dated 25/08/2003 passed by respondent no. 1 at Annexure-C to the petition, are quashed and set aside. Respondent no.2, Gujarat Secondary Education Board, is directed to reconsider the case of the petitioner afresh, without being influenced by the fact that this Court has quashed the orders passed by both the authorities.

7.2 The petitioner is directed to make an application before respondent no.2 within a period of three weeks from today. On receipt of such an application from the petitioner, respondent no.2 Board is directed to re-consider the same within a period of three months from the date of receipt of such application from the petitioner. While deciding the case afresh, the petitioner shall be at liberty to raise all the contentions that have been raised in this petition along with necessary documentary evidences. The respondent Board shall pass appropriate orders in the matter, keeping in mind the contentions raised by the petitioner in this petition and the documentary evidences that may be produced by the petitioner.

7.3 With the aforesaid directions, the petition stands disposed of. Rule is made absolute accordingly with no order as to costs. Direct service permitted.

(K. S. Jhaveri, J.)

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